REMARKS

Status Summary

In this amendment, claims 4 and 20 are canceled, and claim 26 is added. Therefore, upon entry of this amendment, claims 1-3, 5-19, and 21-26 will be pending.

Claim Rejection - 35 U.S.C. § 102

Claims 1-4, 7-13, 16-20, 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2003/0148779 to Aravamudan et al. (hereinafter, "Aravamudan"). This rejection is respectfully traversed.

Independent claims 1, 10, and 17 respectively recite a method, a short message gateway, and a computer program product for delivering presence information regarding push-to-talk subscribers. In claim 1, presence information regarding a first push-to-talk subscriber is received from a push-to-talk or presence server. The presence information is destined for a second push-to-talk subscriber. It is determined whether the second push-to-talk subscriber is available. In response to determining that the second push-to-talk subscriber is available, the presence information is delivered to the second push-to-talk subscriber in a manner that bypasses a short message service center. Each of claims 1, 10, and 17 has been amended to recite that the presence information is delivered using a short message service (SMS) message.

As stated in the Background section of Applicants' specification, SMS messages are normally delivered using SMSCs, which use a store and forward mechanism to deliver the messages. This store and forward mechanism introduces latency.

Presence information may not have value after a certain time period. Accordingly, using an SMS message to deliver presence information would be undesirable if delivered using the normal store and forward mechanism of an SMSC. In order to avoid this difficulty, the subject matter of independent claims 1, 10, and 17 delivers presence information received from the presence server regarding the push-to-talk subscriber using an SMS message in a manner that bypasses the SMSC.

There is absolutely no disclosure, teaching or suggestion in Aravamudan of a method, a system, or a computer program product that delivers presence information received from a presence server regarding a push-to-talk subscriber to another push-to-talk subscriber using an SMS message in a manner that bypasses an SMSC. Aravamudan is directed to a method for expediting certain push-to-talk communications by waking up dormant mobile terminals that receive the communications. For example, Aravamudan states:

> If it is determined that a user intends to select a particular group (e.g., because the user has caused the cursor to linger over the groups listing for a period of time), the intimation message is sent to the recipient handsets that belong to the group. Thus, the recipient handsets can begin preparing for the group call before the user completes initiation of the group call. (See paragraph [0085] of Aravamudan.)

From this passage, Aravamudan indicates that a message is sent to handsets to wake up the handsets in order for the handsets to prepare to receive group communications. Neither this message nor any other message discussed in Aravamudan is an SMS message that carries presence information received from the presence server.

According to Aravamudan, the only uses disclosed for SMS messages are to deliver a registration message from a handset to a proxy switch (see paragraph [0083] of Aravamudan) and to deliver the above-described intimation or wake-up message (see paragraph [0084] of Aravamudan). Neither the registration message nor the intimation message is an SMS message that carries presence information from a presence or push-to-talk server regarding one subscriber to another subscriber. A registration message is originated by a handset, rather than a presence server and is delivered only to the proxy switch rather than to another subscriber. The intimation message is delivered to talk group handsets. However, the intimation message is merely a wake-up message and does not carry presence information regarding a subscriber. Accordingly, for these reasons, it is respectfully submitted that the rejection of claims 1, 10, and 17 and their respective dependent claims as anticipated by Aravamudan should be withdrawn.

In the Official Action, it was indicated that paragraphs [0090] and [0091] of Aravamudan and Figures 8-11 disclose delivering presence information received from a presence server regarding one subscriber to another subscriber as claimed. Applicants respectfully disagree.

Paragraph [0090] of Aravamudan indicates that the proxy switch receives a register message, determines members of a user's group that are available and negotiates port parameters to be used by potential calls. There is no mention of delivering presence information regarding one subscriber to another subscriber using short message service in a manner that bypasses an SMSC as claimed.

Paragraph [0091] of <u>Aravamudan</u> discloses a procedure by which a user of handset selects the user group, initiates a connection with members of the user group, and communicates with members of the user group. There is no mention of presence servers, presence information, or delivery of such information using SMS in a manner that bypasses an SMSC.

Figure 8 of <u>Aravamudan</u> fails to disclose any use of SMS messaging. Rather, it is a block diagram of a mobile communications network. Figures 9-11 are call flows, none of which involve delivery of presence information using an SMS message in a manner that bypasses an SMSC as claimed. Accordingly, for this additional reason, the rejection of claims 1, 10, and 17 and their respective dependent claims should be withdrawn.

Allowable Subject Matter

Claims 5, 6, 14, 15, 21, and 22 were objected as being dependent upon a rejected base claim but were indicated as allowable if rewritten in independent from to include the elements of the base claim and any intervening claims. Claim 5 has been rewritten in independent form. Claim 6 depends from claim 5. Accordingly, claims 5 and 6 should now be allowed. Claim 14 has been rewritten in independent form. Claim 15 depends from claim 14. Accordingly, claims 14 and 15 should now be allowed. Claim 21 has been rewritten in independent form. Claim 22 depends from claim 21. Accordingly, claims 21 and 22 should now be allowed.

New Claims

New claim 26 is proposed to be added. Support for new claim 26 is found, for example on page 3, lines 9-17 of the present specification. New claim 26 recites a method for delivering presence information in a manner that bypasses an SMSC. Claim 26 recites that the presence information is received in a short message peer-to-peer and delivered using SMS in a manner that bypasses the SMSC. Claim 26 is patentable over the documents cited in the Official Action for the same reasons stated above with regard to independent claims 1, 10, and 17, and, in addition, for the additional elements recited in claim 26.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.
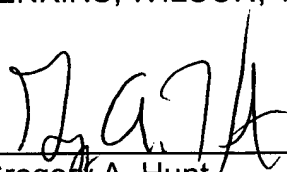
A check in the amount of $2,000.00 (representing the $1,020.00 Extension of Time fee, the $800.00 additional claims fee, and the $180.00 Information Disclosure Statement Fee) is enclosed. However, the Commissioner is hereby authorized to charge any deficiencies of payment or credit any overpayments associated with the filing of this correspondence to Deposit Account No. **50-0426**.

Respectfully submitted,

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Date: August 23, 2006　　　　　By: _____

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